

DOCKETED

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STATEMENT OF STAFF APPROVAL OF POST CERTIFICATION CHANGE MIDWAY PEAKING PROJECT (06-AFC-10C)

On January 30, 2024, Starwood Power Midway LLC, the project owner, filed a Post Certification Petition for Changes in Project Design, Operation or Performance and Amendments to the Commission Decision (Petition) ([TN 254219](#)) with the California Energy Commission (CEC) requesting to amend the Midway Peaking Project (MPP) Final Commission Decision (Final Decision).

The MPP is a 120-megawatt (MW) project certified by the CEC on January 16, 2008, that began commercial operation on May 1, 2009. The MPP is located at 43627 West Panoche Road, Firebaugh in Fresno County.

DESCRIPTION OF PROPOSED CHANGE

The project owner is seeking approval for the interconnection of the 120 MW Midway Battery Energy Storage System (BESS) to the existing MPP Substation. This would include the installation of a 385-foot-long overhead conductor with up to four 60-foot transmission poles and electrical connections to the existing onsite switchyard to accommodate the BESS interconnection.

To access the petition to amend, go to the [CEC's projects webpage](#). In the box labeled "Compliance Proceeding" click on the [Docket Log \(06-AFC-10C\)](#) and locate the petition by the transaction number noted above.

CEC STAFF REVIEW AND CONCLUSIONS

California Code of Regulations, title 20, section 1769(a)(1) requires a project owner to petition the CEC for the approval of any change the project owner proposes to the project design, operation, or performance requirements of a certified facility. Pursuant to 1769(a)(3)(A), the petition may be approved by CEC staff (staff) only if the following criteria are met:

- i. There is no possibility that the change may have a significant impact on the environment, or the change is exempt from the California Environmental Quality Act (CEQA);

- ii. The changes would not cause the project to fail to comply with any applicable laws, ordinances, regulations, or standards (LORS); and
- iii. The changes will not require a change to, or deletion of, a condition of certification (COC) adopted by the Commission in the Final Decision or subsequent amendments.

Staff reviewed the petition for potential environmental effects and consistency with LORS. Staff's conclusions for all technical and environmental areas are summarized in **Table 1**.

TABLE 1
Summary of Conclusions for all Technical and Environmental Areas

Technical Areas Reviewed	CEQA				Conforms with applicable LORS
	Potentially Significant Impact	Less Than Significant Impact with Mitigation (with Revised or New COCs)	Less Than Significant Impact (with or without Existing COCs)	No Impact	
Air Quality			X		X
Biological Resources			X		X
Cultural Resources			X		X
Efficiency				X	
Facility Design					X
Geological Resources			X		X
Hazardous Materials Management			X		X
Land Use				X	X
Noise and Vibration			X		X
Paleontological Resources			X		X
Public Health			X		X
Reliability					
Socioeconomics			X		
Soil and Water Resources			X		X
Traffic and Transportation			X		X
Transmission Line Safety and Nuisance			X		X
Transmission System Engineering					X
Visual Resources			X		X
Waste Management			X		X
Worker Safety and Fire Protection			X		X

Areas shown in gray are not subject to CEQA consideration or have no applicable LORS the project must comply with.

Staff has determined that the modified project would continue to comply with applicable LORS, and the project change would not result in any significant adverse environmental impacts or require a change to any COCs. The basis for each of staff's conclusions are provided below:

AIR QUALITY

The proposed MPP BESS 13.8 kV interconnection project modifications would involve construction activities for an estimated 2 to 3 weeks. Construction activities would result in tailpipe emissions from the operation of construction equipment, truck deliveries, and workforce travel to and from the project site location during construction. Ground disturbance activities associated with the proposed modifications that would affect air quality and greenhouse gas emissions include drilling pier pole foundations up to 20 feet deep and 6 feet in diameter (i.e., up to approximately 85 cubic yards total, assuming four poles). Fugitive dust emissions would be expected as a result from pier pole foundation drilling. The limited extent of construction activities and the use of Tier 4 construction equipment as available would ensure air emissions are minimized.

The proposed modifications are planned in areas that have been previously disturbed during construction and operation of the current MPP facility. No air quality permits are expected to be required associated with the 13.8 kV interconnection project on the MPP site.

Compliance with applicable LORS along with adherence to the requirements of the existing Air Quality COCs **AQ-SC1** through **AQ-SC5** would ensure that impacts related to air quality and greenhouse gases would be less than significant.

BIOLOGICAL RESOURCES

Construction activities for the proposed modification are expected to start in the second quarter of 2025. This would coincide with the avian breeding season: January 1 through August 31. Although construction would be limited to a disturbed, developed area of the MPP site, the existing agriculture that surrounds the project site means that nesting birds and/or San Joaquin kit foxes present in the area may venture onsite. Therefore, construction activities have the potential to affect nesting birds and kit foxes.

Implementation of Pre-Construction bird surveys and biological monitoring during construction per COCs **BIO-1** – **BIO-4** and **BIO-9** (Part 17) would ensure that any nesting birds are protected. Implementation of best management measures in **BIO-9**, excluding Part 1 as no natural habitat would be affected by this project modification, and **BIO-8** would ensure that kit foxes as well as any other wildlife would be protected. In addition, all construction workers must undergo the Worker Environmental Awareness Program training per **BIO-5**. Implementation of these COCs would ensure

the project modification would have less than significant impacts on biological resources and the project would comply with all applicable LORS.

CULTURAL RESOURCES

The proposed modifications, as described in the Geological and Paleontological Resources analysis (see below), would be built on previously graded and excavated land. The petition, however, points out that excavation for four power-pole foundations could extend 20 feet below the current grade into undisturbed, native sediments. During construction of the original MPP (then called Starwood Peaking Plant), cultural resource monitors identified two historic archaeological resources (AE-KDB-1 and AE-KDB-2) below the ground surface. Cultural resource monitors excavated both sites in their entirety. The proposed 13.8-kV gen-tie route passes within 11 feet of archaeological site AE-KDB-1's former location. Therefore, the modifications described in the petition have the potential to disturb as-yet-unidentified archaeological resources that could qualify as historical resources, unique archaeological resources, or tribal cultural resources. Implementation of COCs **CUL-1** through **CUL-7** would reduce such impacts to a less than significant level. The proposed modifications remain in compliance with applicable LORS including the County of Fresno's updated general plan.

EFFICIENCY

There would be no impact to the thermal efficiency of the MPP power plant as the result of this petition to amend.

FACILITY DESIGN

The interconnect on the MPP site would include the installation of up to four transmission poles and transmission lines, and construction of associated foundations. These activities must be in accordance with the 2022 edition of the California Building Standards Code. Implementations of the existing Facility Design COCs adopted in the Final Decision and construction compliance oversight by the CEC's delegate chief building official would ensure compliance.

GEOLOGICAL AND PALEONTOLOGICAL RESOURCES

The planned MPP BESS 13.8 kV interconnection project would comprise a new electrical connection between the BESS switchyard and the existing 13.8 kV/115 kV generation step-up unit (GSU) in the MPP switchyard. The modifications are planned for the southwestern portion of the MPP parcel in the area between the western property line, the MPP power block to the east, and the MPP switchyard to the north. Ground disturbance activities associated with the proposed modifications include:

- Drilled pier pole foundations up to 20 feet deep and 6 feet in diameter (i.e., up to approximately 85 cubic yards total, assuming four poles).
- Transition structure and tie-in facilities foundations at MPP switchyard/GSU assumed to encompass a composite area of no more than 30 feet by 30 feet with up to approximately 100 cubic yards of cut spoil for foundations.
- Total cut/excavations spoil are estimated at less than 200 cubic yards including poles and interconnection facility.

The proposed modifications are planned in areas that have been previously disturbed during construction and operation of the current MPP facility and includes augering of up to four power pole pier hole foundations on the MPP parcel to depths of up to approximately 20 feet below the existing grade. The foundation depths for the transition structure in the MPP switchyard area may also extend below the depths of previous grading disturbance on the MPP site. Accordingly, there is a potential for discovering unknown paleontological resources since subsurface excavation depths would extend below previous MPP site preparation/grading depths at the pole and structure foundation locations. Subsurface disturbance into undisturbed native material would have the potential to impact in-situ paleontological resources if present.

There are no unique geologic features within the footprints of the proposed modifications.

Compliance with applicable LORS along with adherence to the requirements of the existing paleontological resource COCs **PAL-1** through **PAL-7** would ensure that impacts related to geologic hazards and paleontological resources would be less than significant.

HAZARDOUS MATERIALS MANAGEMENT

The proposed installation of a 385-foot-long overhead conductor with up to four 60-foot transmission poles and electrical connections to the existing onsite switchyard to accommodate the BESS interconnection, would not use extremely hazardous materials during construction. The only hazardous materials used during the construction phase would be paints, cleaners, solvents, gasoline, motor oil, welding gases and lubricants. Hazardous materials would be stored, handled, and used in accordance with applicable LORS. When not in use, any hazardous materials would be stored in designated construction areas in compliance with LORS. Compliance with applicable LORS would ensure that impacts related to hazardous materials management would be less than significant. Therefore, the proposed project modification would not have a significant impact on the offsite public or the environment.

LAND USE

The MPP site and adjacent properties are zoned AE-20, Exclusive Agriculture, and are located in an area of concentrated power plant and substation development south of West Panoche Road. The installation of a 385-foot-long overhead conductor with up to four 60-foot transmission poles and electrical connections to the existing onsite switchyard to accommodate the Midway BESS interconnection would be on previously disturbed and developed portions of the peaker plant site. The modifications would be consistent with the existing power plant development on the site and adjacent properties. The project would remain in conformance with applicable LORS related to land use. There are no land use COCs applicable to the change in the Final Decision. The proposed change would not physically divide an established community or cause a significant environmental impact due to a conflict with LORS adopted for the purpose of avoiding or mitigating an environmental effect. Further, the change would not result in the conversion of farmland or forest land or conflicts with agricultural operations. Therefore, installation of the interconnection components would have no impacts to land use.

NOISE AND VIBRATION

The nearest sensitive receptors (residences) are located approximately 1,300 feet from the project site. Activities associated with this project would be temporary and would occur during the daytime hours that are consistent with the local noise ordinance (Fresno County Code Section 8.40.060). Any noise generated during these activities would result in a less than significant impact with implementation of the existing Noise COCs in the Final Decision.

The operational noise would not be affected as the result of this petition to amend.

PUBLIC HEALTH

The proposed MPP BESS 13.8 kV interconnection project modifications would involve construction activities for an estimated 2 to 3 weeks. Construction activities would result in a potential impact to public health due to tailpipe emissions from the operation of construction equipment, truck deliveries, and workforce travel to and from the project site location during construction. The construction activities and the use of Tier 4 construction equipment, that the applicant stated it would use as available, would ensure impacts to public health are less than significant.

There are no public health COCs for the MPP facility, however, compliance with applicable LORS along with adherence to the requirements of the existing Air Quality COCs **AQ-SC1** through **AQ-SC5** would ensure that impacts related to public health would be less than significant.

RELIABILITY

There would be no impact to MPP plant reliability as the result of this petition to amend.

SOCIOECONOMICS

Installation of the interconnection components would involve construction activities for an estimated two-to-three-week period. The estimated workforce for the construction on the MPP site is 10–15 workers at any one time. The new components would not require any changes in operations workforce at the MPP. There are no socioeconomics related LORS or COCs applicable to the change and there would be less than significant temporary workforce related impacts on population and housing, and on public services.

SOIL AND WATER

The proposed modifications are planned in areas that have been previously disturbed during construction and operation of the current MPP facility. Planned facilities would be installed in paved or graveled portions of the existing MPP power block area where there is no exposed surface soil that could be subject to erosion associated with project activities. Planned surface footprint would be less than 1,500 square feet with an estimated maximum cut (augured soil) and fill (concrete) quantities of less than 85 cubic yards and associated transition structure installation disturbance would be less than 100 cubic yards. Excess cut would be removed from the site and disposed of in an approved manner. Minimal water would be required for construction. COC **Soil & Water-2** would ensure that no contaminated stormwater would be discharged offsite and thus the impact of the proposed modification on soil and water resources would be less than significant.

TRAFFIC AND TRANSPORTATION

Installation of the interconnection components would occur over a 2-to-3-week period and would require a construction workforce of 10 to 15 workers at any one time. Truck delivery and haul trips are estimated to be less than 30 total with up to 10 truck trips per day for several days of the construction period. Once installed, the new components would not increase the MPP operations workforce needs. With implementation of existing COCs, including **TRANS-3** (Construction Traffic Complaint Resolution) and **TRANS-4** (Worker Traffic Safety Program), the proposed change would not conflict with LORS addressing the circulation system, substantially increase hazards, or result in inadequate emergency access. Therefore, installation of the interconnection components would have less than significant impacts to transportation.

TRANSMISSION LINE SAFETY AND NUISANCE

The planned Midway BESS 13.8 kV interconnection project would comprise a new electrical connection between the BESS switchyard and the existing 13.8 kV/115 kV GSU in the MPP substation. This connection would be made using an underground cable or overhead onsite 13.8 kV lines. This line segment would traverse the designated right of way_for electrical line construction. No upgrades to the offsite existing transmission line are needed. Compliance with the existing Transmission Line Safety and Nuisance COCs **TLSN-1** through **TLSN-5** would ensure that impacts related to transmission line safety and nuisance would be less than significant.

TRANSMISSION SYSTEM ENGINEERING

The proposed interconnection of the 120 MW Midway BESS to the existing MPP Substation would include a 385-foot-long 13.8 kV overhead conductor and four new poles up to 60 feet high. The overhead conductor would connect from the MPP BESS switchyard to the low side of the 13.8/115 kV MPP GSU transformer. BESS generation would be stepped-up to 115 kV then transferred to the PG&E transmission system via the existing MPP interconnection facilities. The total output of both MPP and the BESS would not exceed 120 MW, which was the approved MPP generation output at the point of interconnection. Compliance with existing Transmission System Engineering COC **TSE-5** would ensure that impacts related to transmission system engineering would be less than significant.

VISUAL RESOURCES

The visual character of the general project area includes four power plant facilities, the PG&E Panoche Substation, and multiple transmission lines located south of West Panoche Road. The installation of a 385-foot-long overhead conductor with up to four 60-foot transmission poles and electrical connections to the existing onsite switchyard to accommodate the Midway BESS interconnection would be at a scale consistent with the existing surrounding power plant structures and would not substantially alter the appearance of the MPP from public views. The MPP facility would remain in compliance with LORS pertaining to visual resources. No construction or new permanent lighting is proposed. The transmission line conductors would be non-specular and non-reflective, and the insulators would be non-reflective and non-refractive in compliance with COC **VIS-1** (Surface Treatment of Project Structures and Buildings). The requested change would not have a substantial adverse effect on a scenic vista, scenic resources, the existing visual character, or quality of public views of the project site and its surroundings or create a new source of substantial light or glare adversely affecting day or nighttime views in the area. Therefore, installation of the interconnection components would have a less than significant impact related to visual resources.

WASTE MANAGEMENT

The proposed MPP BESS 13.8 kV interconnection project modifications would be expected to generate minimal amounts of non-hazardous wastes during construction. The project would not result in an increase of waste generation during the operational phase. Therefore, with compliance with the existing LORS and COCs the impacts of the proposed modifications to waste generation and waste management are expected to be less than significant.

WORKER SAFETY AND FIRE PROTECTION

During the proposed installation of a 385-foot-long overhead conductor with up to four 60-foot transmission poles and electrical connections to the existing onsite switchyard to accommodate the BESS continued compliance with existing COCs **WORKER SAFETY-1** and **WORKER SAFETY-3** would ensure that the proposed project modification would comply with applicable LORS. Therefore, the proposed project modification would not have a significant impact on the worker health and safety or the offsite public.

CALENVIROSCREEN 4.0

Staff reviewed CalEnviroScreen 4.0 data to determine whether the United States census tract where the MPP is located (06019008302) is identified as a disadvantaged community. This science-based mapping tool is used by the California Environmental Protection Agency (CalEPA) to identify disadvantaged communities based on geographic, socioeconomic, public health, and environmental hazard criteria pursuant to Health and Safety Code section 39711 as enacted by Senate Bill 535 (De León, Chapter 830, Statutes of 2012). The CalEnviroScreen 4.0 overall percentile score for this census tract is 84.83 and, thus, is identified as a disadvantaged community¹.

ENVIRONMENTAL JUSTICE

Environmental Justice Figure 1 shows 2020 census blocks in the six-mile radius of the MPP with a minority population greater than or equal to 50 percent. The population in these census blocks represents an environmental justice (EJ) population based on race and ethnicity as defined in the United States Environmental Protection Agency's *Guidance on Considering Environmental Justice During the Development of Regulatory*

¹ The four categories of geographic areas identified by CalEPA as disadvantaged are: 1) census tracts receiving the highest 25 percent of overall scores in CalEnviroScreen 4.0, 2) census tracts lacking overall scores in CalEnviroScreen 4.0 due to data gaps, but receiving the highest 5 percent of CalEnviroScreen 4.0 cumulative pollution burden scores, 3) census tracts identified in the 2017 DAC designation, regardless of their scores in CalEnviroScreen 4.0, and 4) lands under the control of federally recognized tribes. Source: CalEPA Final Designation of Disadvantaged Communities: May 2022
<https://calepa.ca.gov/envjustice/ghqinvest/>

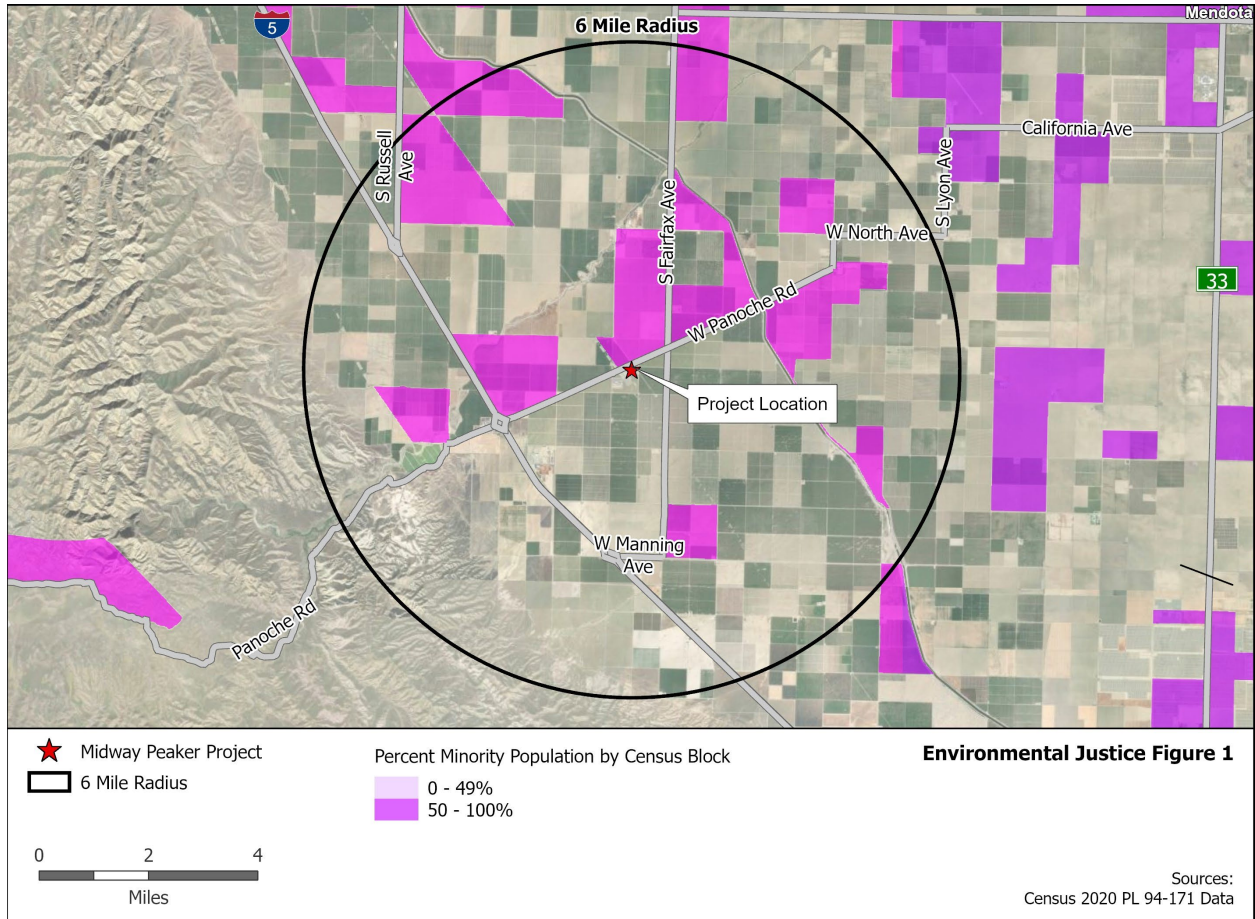
Actions. Staff conservatively obtains demographic data within a six-mile radius around a project site based on the parameters for dispersion modeling used in staff’s air quality analysis. Air quality impacts are generally the type of project impacts that extend the furthest from a project site. Beyond a six-mile radius, air emissions have either settled out of the air column or mixed with surrounding air to the extent the potential impacts are less than significant. The area of potential impacts would not extend this far from the project site for most other technical areas included in staff’s EJ analysis.

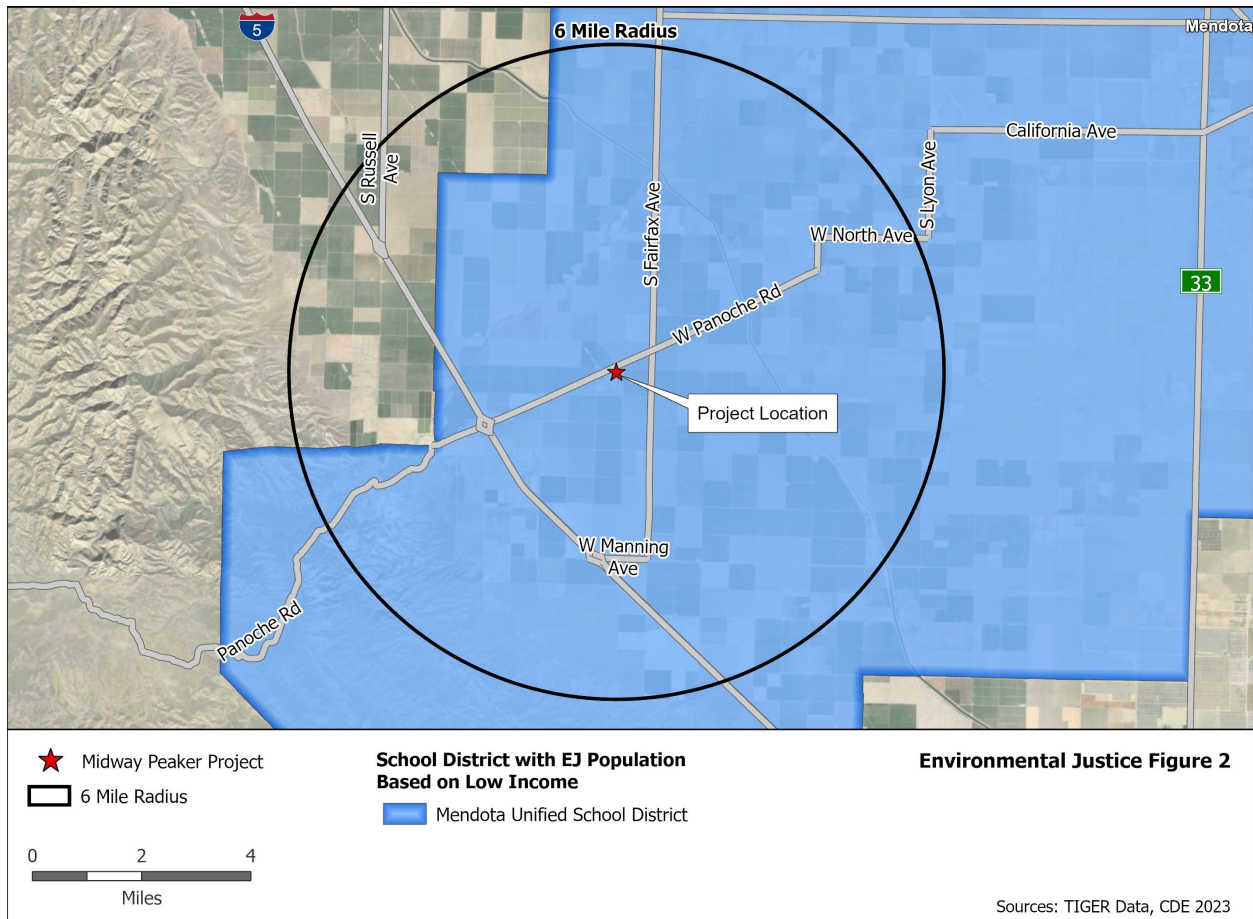
Based on California Department of Education data in the **Environmental Justice Table 1**, staff concluded that the percentage of those living in the Mendota Unified School District (in a six-mile radius of the project site) and enrolled in the free or reduced price meal program is larger than those in the reference geography. Thus, it is considered an EJ population based on low income as defined in *Guidance on Considering Environmental Justice During the Development of Regulatory Actions*. **Environmental Justice – Figure 2** shows where the boundaries of the school district are in relation to the six-mile radius around the MPP site.

Environmental Justice – Table 1
Low Income Data within the Project Area

SCHOOL DISTRICTS IN SIX-MILE RADIUS	Enrollment Used for Meals	Free or Reduced Price Meals	
Mendota Unified	3,920	3,836	97.9%
REFERENCE GEOGRAPHY			
Fresno County	206,239	156,128	75.7%
Source: CDE 2023. California Department of Education, DataQuest, Free or Reduced Price Meals, District level data for the year 2022-2023, http://dq.cde.ca.gov/dataquest/ .			

The following technical areas (if affected) consider impacts to EJ populations: Air Quality, Cultural Resources (indigenous people), Hazardous Materials Management, Land Use, Noise and Vibration, Public Health, Socioeconomics, Soil and Water Resources, Traffic and Transportation, Transmission Line Safety and Nuisance, Visual Resources, Waste Management, and Worker Safety and Fire Protection.





Environmental Justice Conclusions

For this petition, the following technical areas consider impacts to EJ populations: Air Quality, Cultural Resources, Noise and Vibration, Public Health, Socioeconomics, Traffic and Transportation, and Visual Resources staff concludes that impacts would be less than significant, and thus impacts on the EJ population, represented in **Figures 1** and **2**, and **Table 2**, would be less than significant.

CEC STAFF DETERMINATION

Staff has determined that the petition meets the criteria for approval by staff, and therefore, submission to the CEC for approval is not required. Specifically, based on the environmental and other analysis set forth above, staff has determined the proposed changes described in the petition meet the following requirements:

1. There is no possibility that the change may have a significant impact on the environment, or the change is exempt from the California Environmental Quality Act;
2. The changes would not cause the project to fail to comply with any applicable laws, ordinances, regulations, or standards; and
3. The changes will not require a change to, or deletion of, a condition of certification adopted by the Commission in the final decision or subsequent amendments.

As analyzed above, staff has determined that there is no possibility that the change may have a significant impact on the environment. The change would also be exempt from CEQA under the existing facilities exemption. (Cal. Code Regs., tit. 14, § 15301.) California Code of Regulations, title 14, section 15300 et al. includes a list of classes of projects which have been determined not to have a significant effect on the environment and which are exempt from the provisions of CEQA. The existing facilities exemption consists of, "the operation, repair, maintenance, permitting, leasing, licensing, or *minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use.*" (Emphasis added, Cal. Code Regs., tit. 14, § 15301.) The CEQA Guidelines provide a non-exhaustive list of types of projects that fall under this category of exemptions including, "Existing facilities of both *investor and publicly owned utilities used to provide electric power, natural gas, sewerage, or other public utility services...*" (Emphasis added, Cal. Code Regs., tit. 14, § 15301(b).) The key consideration for determining if the project falls under the existing facilities exemption is whether the project involves negligible or no expansion of use.

For this petition, the project owner is seeking approval for the interconnection of the 120 MW Midway BESS to the existing MPP Panoche Substation owned by PG&E. The MPP both generates power and transmits it through the PG&E transmission system, which is included in the CEQA Guidelines list of existing facilities exempt projects as an investor and publicly owned utilities used to provide electric power. Additionally, as mentioned in staff's review of the Transmission System Engineering impacts, the proposed changes do not expand the operation of MPP. The output of both MPP and Midway BESS would not exceed 120 MW which was the approved MPP generation output at the point of interconnection. Therefore, the existing facilities exemption applies to this petition.

Staff also concludes that none of the findings specified in section 1748(b) apply to the proposed changes and the proposed changes do not meet any of the criteria requiring the production of subsequent or supplemental review pursuant to Public Resources Code section 21166 and California Code of Regulations, tit. 14, section 15162.

WRITTEN COMMENTS

This statement of staff summary and approval of the proposed project changes has been filed in the docket for this project. Pursuant to California Code of Regulations, title 20, section 1769(a)(3)(C), any person may file an objection to the CEC staff's determination within 14 days of the filing of this statement on the grounds that the project change does not meet the criteria set forth in sections 1769(a)(3)(A) or (a)(3)(B). Absent any objections as specified in section 1769(a)(3)(C), this petition will be approved 14 days after this statement is filed.

The CEC's project webpage, <https://www.energy.ca.gov/powerplant/simple-cycle/midway-peaking-project> has a link to the petition and this Statement of Staff Approval on the right side of the webpage in the box labeled "Compliance Proceeding." Click on the "[Docket Log \(06-AFC-10C\)](#)" option.

Written comments or objections to staff's determination may be submitted using the CEC's e-Commenting feature, as follows: Go to the [CEC's Project webpage](#) and click on either the "[Comment on this Proceeding](#)," or "[Submit e-Comment](#)" link. When your comments are filed, you will receive an email with a link to them.

Written comments or objections may also be mailed to:

California Energy Commission
Docket Unit, MS-4
Docket No. 06-AFC-10C
715 P Street
Sacramento, CA 95814-5512

All comments and materials filed with the Docket Unit will be added to the facility Docket Log and be publicly accessible on the [CEC's project webpage](#).

If you have questions about this document, please contact Compliance Project Manager Keith Winstead, Compliance Monitoring and Enforcement Unit, Safety and Reliability Branch, at (916) 208-3849, or via email at Keith.Winstead@energy.ca.gov.

For information on public participation, please contact the CEC's Office of Public Advisor, Energy Equity, and Tribal Affairs at (916) 957-7910 or email at publicadvisor@energy.ca.gov.

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